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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,850	08/18/2003	Cynthia H. Nordness	KCC-15,611.1	4040

7590 03/22/2007
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EXAMINER	
ANDERSON, CATHARINE L	
ART UNIT	PAPER NUMBER
3761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/642,850

Applicant(s)

NORDNESS ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-20, 22-30, 32-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-20, 22-30, 32-38 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-7, 9-20, 22-30, 32-38, and 40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-12, 14-20, 22-29, 32-37, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al. (5,037,416).

With respect to claims 1, 20, 27-28, and 34-36, Allen discloses an absorbent garment, as shown in figure 1, having a waist opening and leg openings. The absorbent garment comprises a composite structure including a liquid-permeable body side liner (shown in figure 6 but not numbered), an outer cover 16, and an absorbent assembly 18. A continuous mesh liner 12 is attached to the composite structure with no intervening layers between it and the body side liner, as shown in figure 6. The mesh liner 12 is coextensive with the composite and attached to the composite around its perimeter, as disclosed in column 3, lines 35-39. The mesh liner 12 is unattached to the composite in the central region, as disclosed in column 12, lines 63-64. The garment further comprises a pair of containment flaps 50, as shown in figure 2.

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With respect to claim 2, the mesh liner comprises a nonwoven material, as disclosed in column 6, lines 27-30.

With respect to claim 3, the nonwoven material is polypropylene, as disclosed in column 9, line 48.

With respect to claim 7, the mesh liner comprises two layers of material, as disclosed in column 6, lines 27-28.

With respect to claims 9 and 22, the mesh liner is a nonwoven and therefore permeable to liquids but not to bowel material.

With respect to claims 10-12 and 23, the mesh liner has a basis weight of 25 gsm, as disclosed in column 6, line 36.

With respect to claims 14-17 and 25, the mesh liner has a tensile strength of at least 19 pounds per 4 inches, as disclosed in column 6, lines 35-36.

With respect to claims 18-19, an elastic strand 19 is attached under the mesh liner 12 and adjacent the body side liner, as shown in figure 2.

With respect to claim 26, the absorbent garment, including the mesh liner, is folded from a flat state, shown in figure 2, to form a pant-like garment, shown in figure 1.

With respect to claims 29 and 37, the mesh liner comprises a spunbond web, as disclosed in column 6, line 30.

With respect to claim 32, the mesh liner is attached to the liquid-permeable layer, as shown in figure 6.

With respect to claims 33 and 40, the garment is fully capable of functioning as a swim pant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al. (5,037,416) in view of Freeland (4,990,147).

Allen discloses all aspects of the claimed invention with the exception of the mesh liner being nylon. Freeland teaches that polyurethane nonwoven materials, such as polypropylene and polyethylene, and nylon are suitable and equivalent material for use as the liner of an absorbent garment, as described in column 3, lines 56-68. It would therefore be obvious to one of ordinary skill in the art at the time of invention for the mesh liner of Allen to comprise polyethylene or nylon, since it has been held that these materials are equivalent to polypropylene, as evidenced by Freeland.

Claims 5, 30, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al. (5,037,416) in view of Mitzutani et al. (US 2002/0028624 A1).

Allen discloses all aspects of the claimed invention with the exception of a spunbond/meltblown/spunbond liner. Mitzutani teaches that polypropylene nonwoven materials and SMS webs are suitable and equivalent material for use as the liner of an absorbent garment, as described in paragraphs [0070-0071]. It would therefore be obvious to one of ordinary skill in the art at the time of invention for the mesh liner of

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Allen to comprise a polyethylene nonwoven or an SMS web, since it has been held that these materials are equivalent to polypropylene, as evidenced by Mitzutani.

Claims 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al. (5,037,416).

Allen discloses all aspects of the claimed invention with the exception of the hole size of the mesh liner. Allen discloses the mesh liner is a nonwoven material, which is inherently porous. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the hole size of the mesh liner in a range of 147-5810 microns, since it has been held that where the general conditions of the claim are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,885,264 and 5,797,892 disclose absorbent garments having mesh liners, but neither discloses the mesh liners being coextensive with the absorbent composite.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMA

cla

March 19, 2007

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

TZaluk